IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.886 OF 1994.

ALONG WITH

FIRST APPEAL NO.887 OF 1994

ALONG WITH

FIRST APPEAL NO.888 OF 1994

ALONG WITH

FIRST APPEAL NO.889 OF 1994

ALONG WITH

FIRST APPEAL NO.890 OF 1994

ALONG WITH

FIRST APPEAL NO.891 OF 1994

ALONG WITH

FIRST APPEAL NO.892 OF 1994

ALONG WITH

FIRST APPEAL NO.893 OF 1994

Union of India : Appellants.

versus

Century Textile s & Industries Ltd. : Respondent.

Mr.A.N.Samant for the appellants.

None for the respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 2nd May 2005.

ORAL ORDER

1. Heard Mr.Samant for the Union of India. Nobody is present for the respondent. Mr.Samant made three submissions. All these appeals involved common questions, and those questions are as under :-

> The application for permission to cross examine the witness of the respondent/claimant was rejected without any reason. That the Member of the tribunal was bias and prejudiced against the Union of India and, therefore, he rejected that permission and, therefore, the matter is fit to be remanded because cross examination of the respondent's witness would have falsified the claim and contentions of the respondent.
>
> Secondly, in all these appeals the defence of the railway is RR are to the

effect "said to contain" and;

Thirdly, the interest awarded by the tribunal at the rate of 12% is not proper. And therefore in view of the judgment of this Court reported in **2005 (1) Mh.L.J.165 Maharashtra State Electricity Board vs. Union of India**, it should be 9%

2. A perusal of the impugned order in all these cases shows that the claims against the Union of India are very petty claims i.e. from Rs.180/- to Rs.1600/- in different claim petitions and not exceeding in any case to Rs.1600/-. The impugned orders have been passed in 1994. Eleven years have lapsed after filing of these appeals and now looking to the claims involved it would not be proper to remand all these cases by setting aside the orders. Therefore that objection cannot be accepted.

3. Secondly, the defence of the railway is that the RR was with endorsement said to contain and the respondent has not discharged their burden in that regard. The goods involved were cement. I

have considered this aspect i.e. "said to contain" in number of appeals and have rejected this contention taking into consideration peculiar facts and circumstances of each case. Therefore, this objection is also required to be rejected.

4. The next contention of Mr.Samant was that the interest that was awarded by the tribunal at 12% was not proper in view of the judgment of this Court reported in **2005 (1) Mh.L.J.165 Maharashtra State Electricity Board vs. Union of India.** It was a claim against the railways and the interest was awarded ultimately by the High Court at 9% per annum. I had also followed the same judgment earlier. Therefore, in view of this judgment the rate of interested is reduced to 9%..

5. Since the prayer to cross examine the witness of the respondent was not granted to the railway, their contention that costs should not have been awarded on them by the tribunal is required to be accepted. Hence the following order:-

:ORDER:

The appeals are partly allowed.

The rate of interest is reduced to 9% p.a. But there will be no order as to costs before the tribunal in favour of the respondent. So far as these appeals are concerned, there will be no order as to costs.

[D.G.DESHPANDE]

02/05/2005 JUDGE.